

FIRST REGULAR SESSION

SENATE BILL NO. 117

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR GRIESHEIMER.

Pre-filed December 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0264S.011

AN ACT

To amend chapter 537, RSMo, by adding thereto three new sections relating to duties and liabilities of ski area operators and skiers.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 537, RSMo, is amended by adding thereto three new sections, to be known as sections 537.800, 537.803, and 537.806, to read as follows:

537.800. As used in sections 537.800 to 537.806, the following terms shall mean:

(1) "Competitor", a skier actually engaged in competition, a special event, or training or practicing for competition or a special event in any portion of the area made available by the ski area operator;

(2) "Freestyler", a skier utilizing freestyle terrain marked with signage approved by the national ski areas association;

(3) "Freestyle terrain", terrain parks and terrain park features, such as jumps, rails, fun boxes, other constructed or natural features, half-pipes, quarter-pipes, and freestyle-bump terrain;

(4) "Passenger", any person who is being transported or conveyed by a passenger tramway;

(5) "Passenger tramway", a device used to transport passengers uphill, whether on skis or other devices or without skis or other devices, or in cars on tracks or suspended in the air, by the use of steel cables, chains, or belts or by ropes, and that is usually supported by trestles or towers with one or more spans. "Passenger tramway" includes all of the following:

(a) "Aerial passenger tramway", a device used to transport passengers in several open or enclosed cars attached to and suspended

21 from a moving wire rope or attached to a moving wire rope and
22 supported on a standing wire rope, or similar devices;

23 (b) "Skimobile", a device in which a passenger car running on
24 steel or wooden tracks is attached to and pulled by a steel cable, or
25 similar devices;

26 (c) "Chair lift", a device on which passengers are carried on chairs
27 suspended in the air and attached to a moving cable, chain, or link belt
28 supported by trestles or towers with one or more spans, or similar
29 devices. Chair lifts need not include foot-rests or passenger restraint
30 devices;

31 (d) "J bar", "T bar", or "platter pull", devices that pull skiers riding
32 on skis or other devices by means of an attachment to a main overhead
33 cable supported by trestles or towers with one or more spans, or similar
34 devices;

35 (e) "Rope tow", a device with one span and no intermediate towers
36 that pulls skiers riding on skis or other devices as they grasp a rope
37 manually, or similar devices;

38 (f) "Wire rope tow", a device with one span and no intermediate
39 towers by which skiers are pulled on skis or other devices while
40 manually grasping a bar attached to a wire hauling cable;

41 (g) "Conveyor", a flexible moving element, including a belt, that
42 transports passengers on one path and returns underneath the uphill
43 portion. The operation of a passenger tramway shall not constitute the
44 operation of a common carrier;

45 (6) "Ski area" all the ski slopes, ski trails, and passenger tramways
46 that are administered or operated as a single enterprise within this
47 state;

48 (7) "Ski area operator", a person or organization that is
49 responsible for the operation of a ski area, including an agency of this
50 state or of a political subdivision thereof;

51 (8) "Ski slopes" or "ski trails", those sites that are reserved or
52 maintained and are open for use, as designated by a ski area operator;

53 (9) "Skier", any person who is using the facilities of a ski area,
54 including, but not limited to, the ski slopes and ski trails, for the
55 purpose of skiing, which includes, without limitation, sliding or jumping
56 on snow or ice on skis, a snowboard, sled, tube, snowbike, toboggan, or
57 any other device;

58 **(10) "Tubing park", a ski slope designated and maintained for the**
59 **exclusive use of skiers utilizing tubes to slide to the bottom of the course**
60 **and serviced by a dedicated passenger tramway.**

537.803. 1. The general assembly recognizes that skiing as a
2 **recreational sport is hazardous to skiers regardless of all feasible safety**
3 **measures that can be taken. It further recognizes that a skier expressly**
4 **assumes the risk of and legal responsibility for injury, death, or loss to**
5 **person or property that results from the inherent risks of skiing, which**
6 **include, but are not limited to, injury, death, or loss to person or**
7 **property caused by changing weather conditions; surface or subsurface**
8 **snow or ice conditions; hard pack, powder, packed powder, wind pack,**
9 **corn, crust, slush, cut-up snow, and machine-made snow; bare spots,**
10 **rocks, trees, stumps, and other forms of forest growth or debris; lift**
11 **towers or other forms of towers and their components, either above or**
12 **below the snow surface; variations in steepness or terrain, whether**
13 **natural or as the result of snowmaking, slope design, freestyle terrain,**
14 **jumps, catwalks, or other terrain modifications; any other objects and**
15 **structures, including, but not limited to, passenger tramways and**
16 **related structures and equipment, competition equipment, utility poles,**
17 **fences, posts, ski equipment, slalom poles, ropes, out-of-bounds barriers**
18 **and their supports, signs, ski racks, walls, buildings, and sheds; and**
19 **plainly marked or otherwise visible snowmaking and snow-grooming**
20 **equipment, snowmobiles, snow cats, and over-snow vehicles.**

21 **2. Provided that the ski area operator complies with subdivision**
22 **(4) of subsection 4 of this section, no liability shall attach to a ski area**
23 **operator for injury, death, or loss to person or property suffered by any**
24 **competitor or freestyler using a freestyle terrain, which injury, death,**
25 **or loss to person or property is caused by course, venue, or area**
26 **conditions that visual inspection should have revealed or by collision**
27 **with a spectator, competition official, ski area personnel, or another**
28 **competitor or freestyler.**

29 **3. Provided the ski area operator complies with subdivision (5) of**
30 **subsection 4 of this section, no liability shall attach to a ski area**
31 **operator for injury, death, or loss to person or property suffered by any**
32 **skier using a tubing park, which injury, death, or loss to person or**
33 **property is caused by course design or maintenance or conditions that**
34 **visual inspection should have revealed or by collision with another**

35 skier.

36 4. The legal responsibilities of a ski area operator to a skier with
37 respect to any injury, death, or loss to person or property resulting in
38 any way from an inherent risk of the sport shall not be those of the
39 common law duty of premises owners to business invitees but shall only
40 be the duty to use ordinary care. A ski area operator shall have,
41 however, the following responsibilities:

42 (1) To mark all trail maintenance vehicles and to furnish such
43 vehicles with flashing or rotating lights that shall be in operation
44 whenever the vehicles are working or are moving in the ski area;

45 (2) To mark with a visible sign or other warning implement the
46 location of any hydrant or similar equipment that is used in snowmaking
47 operations and located anywhere in the ski area;

48 (3) To mark, at the base of a slope or hill where skiers embark on
49 a passenger tramway serving the slope or hill or at the top of a trail or
50 slope, such slopes, trails, and hills with signs indicating their relative
51 degree of difficulty. The signs must be the type that have been approved
52 by the national ski areas association and are in current use by the
53 industry;

54 (4) Prior to the use of any portion of a freestyle terrain area made
55 available by the ski area operator, to allow each freestyler or competitor
56 a reasonable opportunity to visually inspect the course, venue, or area
57 of the freestyle terrain;

58 (5) To allow skiers using a tubing park visible access to the
59 course.

60 5. A skier shall have the following responsibilities:

61 (1) To know the range of the skier's ability to negotiate any slope
62 or trail or to use any passenger tramway that is associated with a slope
63 or trail, to ski within the limits of the skier's ability, to ski only on
64 designated slopes and trails, to maintain control of speed and course at
65 all times while skiing, to heed all posted warnings, and to not cross the
66 track of a passenger tramway except at a designated area;

67 (2) To refrain from acting in a manner that may cause or
68 contribute to the injury of another person, to refrain from causing
69 collision with any person or object while skiing, and to not place any
70 object in a ski area that may cause another skier or a passenger to fall;

71 (3) When involved in a skiing accident in which another person

72 is involved who needs medical or other assistance, to obtain assistance
73 for the person, to notify the proper authorities, and to not depart from
74 the scene of the accident without leaving personal identification;

75 (4) If the skier is a competitor, freestyler, or user of freestyle
76 terrain, to assume the risk of all course, venue, or area conditions,
77 including, but not limited to, weather and snow conditions; obstacles;
78 course or feature location, construction, or layout; freestyle terrain
79 configuration and conditions; and other courses, layouts, or
80 configurations of the area to be used;

81 (5) If the skier is utilizing a tubing park, to assume the risk of
82 collision with others on the course.

537.806. A ski area operator, a tramway passenger, freestyler,
2 competitor, or a skier is liable for injury, death, or loss to person or
3 property caused by the operator's, passenger's, freestyler's, competitor's,
4 or skier's own failure to fulfill any of the responsibilities required by
5 sections 537.800 to 537.806. A ski area operator, a tramway passenger,
6 freestyler, competitor, or a skier is not liable for injury, death, or loss to
7 person or property caused by another's failure to fulfill any of the
8 responsibilities required of another by sections 537.800 to 537.806. A ski
9 area operator, a tramway passenger, freestyler, competitor, or a skier is
10 not entitled to recover for injury, death, or loss to person or property
11 caused by the operator's, passenger's, freestyler's, competitor's, or skier's
12 own failure to fulfill any of the responsibilities required by sections
13 537.800 to 537.806.

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